

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

United States of America,

Plaintiff, Case No. 16-20817

v.

Judith E. Levy
United States District Judge

Demitrius Manderfield,

Mag. Judge Anthony P. Patti
Defendant.

/

**ORDER DENYING DEFENDANT'S RENEWED MOTION FOR
COMPASSIONATE RELEASE [91]**

Before the Court is Defendant Demitrius Manderfield's motion for compassionate release from FCI Butner Medium II due to the ongoing COVID-19 pandemic. (ECF No. 91.) For the following reasons, Defendant's motion is DENIED.

Background

On June 12, 2018, the Court sentenced Defendant to 120 months' imprisonment after he pleaded guilty to one count of Sex Trafficking of a Minor, in violation of 18 U.S.C. § 1591(a)(1). (ECF No. 74.)

On April 17, 2020, Defendant moved for compassionate release and/or reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), arguing that the danger posed to him by the COVID-19 pandemic due to his sickle cell disease constitutes an “extraordinary and compelling reason” for release. (ECF No. 77, PageID.388–390.) The United States responded in opposition to the motion on April 24, 2020 (ECF No. 82), and Defendant replied on April 26, 2020. (ECF No. 85.) Following a hearing on April 28, 2020, the Court denied Defendant’s motion for compassionate release. (ECF No. 86.)

On March 1, 2021, Defendant filed a renewed motion for compassionate release. (ECF No. 91.) The United States provided a copy of the Bureau of Prisons (“BOP”) Health Services Immunization Record form for Defendant, indicating that Defendant declined to receive the first dose of the Pfizer COVID-19 vaccine on February 26, 2021. E-mail from Sara Woodward, Assistant U.S. Att’y, to William Barkholz, Case Manager to Judge Judith E. Levy (Mar. 4, 2021 10:09 EST) (on file with the Court). Accordingly, Defendant apparently declined the vaccine and then requested compassionate release through the courts approximately

three days later. Neither Defendant, in his motion, nor the BOP immunization records form, indicates the reason for his refusal. (*See id.*)

Analysis

Compassionate-release motions require a “three-step” inquiry:

First, the Court must “find that extraordinary and compelling reasons warrant a sentence reduction”;

Second, the Court must “ensure that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission”; and

Finally, the Court must “consider all relevant sentencing factors listed in 18 U.S.C. § 3553(a).”

United States v. Elias, 984 F.3d 516, 518 (6th Cir. 2021). “If each of these requirements are met, the district court may reduce the term of imprisonment. 18 U.S.C. § 3582(c)(1)(A).” *Id.*

The Court denies Defendant’s motion for compassionate release because his access to the COVID-19 vaccine mitigates the concern about extraordinary and compelling medical conditions that might otherwise compel release. Courts in this circuit have consistently refused to find extraordinary and compelling medical circumstances when a defendant declines the COVID-19 vaccine. *See, e.g., United States v. Goston*, No. 15-20694 (E.D. Mich. Mar. 9, 2021) (Levy, J.); *United States v. Macgregor*,

No. 15-20093 (E.D. Mich. Mar. 12, 2021) (Leitman, J.); *United States v. Ervin*, No. 14-000195 (M.D. Tenn. Mar. 5, 2021) (Richardson, J.).

Additionally, the Centers for Disease Control and Prevention advise that the Pfizer vaccine is 95% effective at preventing COVID-19 in individuals who have not previously contracted COVID-19, and “[e]fficacy [i]s similarly high in a secondary analysis including participants [with] evidence of previous SARS-CoV-2 infection.” *The Advisory Committee on Immunization Practices’ Interim Recommendation for Use of Pfizer-BioNTech COVID-19 Vaccine—United States, December 2020*, Centers for Disease Control (Jan. 28, 2021)

https://www.cdc.gov/mmwr/volumes/69/wr/mm6950e2.htm?s_cid=mm6950e2_w.

Because there are no extraordinary and compelling reasons for release, the Court need not consider the remaining compassionate release factors at this time. *See Elias*, 984 F.3d at 518.

Accordingly, Defendant’s motion is DENIED.

IT IS SO ORDERED.

Dated: June 17, 2021
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on June 17, 2021.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager